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**FISCAL IMPACT STATEMENT**

**LS 7035**

**BILL NUMBER:** HB 1271

**NOTE PREPARED:** Feb 25, 2010

**BILL AMENDED:** Feb 24, 2010

**SUBJECT:** Problem-Solving Courts.

**FIRST AUTHOR:** Rep. Koch

**FIRST SPONSOR:** Sen. Bray

**BILL STATUS:** As Passed Senate

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Definitions:* The bill changes the definitions of “case management” and “continuum of care” and requires the Office of the Secretary of Family and Social Services to adopt rules concerning continuum of care.

*Funds for Local Programs:* It provides for a part of specified federal dollars to be disbursed to local programs that provide prevention and treatment services to individuals who have been diagnosed with chronic substance abuse and dependence and are without significant or immediate treatment needs.

*Release of Certain Health Care Information:* It requires the release of certain mental health care information in certain circumstances and provides for civil immunity for the person releasing the information.

*Problem Solving Courts:* The bill provides that certain courts may establish a problem solving court for alternative treatment and rehabilitation. It requires the board of directors of the judicial center to adopt rules for the certification and operation of problem solving courts. The bill also repeals certain provisions regarding drug courts and reentry courts.

**Effective Date:** July 1, 2010.

**Explanation of State Expenditures:** *Definitions:* By changing the definition of "continuum of care", state expenditures may change to the extent (1) previously covered services are not included or (2) additional services are included, in a revised definition made by FSSA. Any change in expenditures depends on the decisions of FSSA administrators.

*Problem Solving Courts:* This bill creates the Indiana Judicial Center Problem Solving Court Fund for administering, certifying, and supporting problem-solving courts. This fund replaces the Indiana Judicial Center Drug Court Fund. The bill would result in only minimal cost to the state General Fund. No appropriations are included in the bill.

However, there could be a potential increase in workload for Indiana Judicial Center staff. If more courts wish to become certified as problem-solving courts, staff would be required to visit the court and view court operations, interview staff and participants, prepare reports, and review their findings with the courts and statewide judicial committees in the Judicial Conference. In December 2008, there were 29 certified drug courts (25 adult courts and 4 juvenile courts) and 6 certified reentry courts. There were also a series of courts that also deal with defendants in a problem-solving format that are not currently certified by the Indiana Judicial Center. Judicial Center staff would also be responsible for reporting each year to the Commission on Courts about the status of problem solving courts.

#### Additional Information

*Medicaid Rehabilitation Option:* This bill changes the definition of "case management" under community care for individuals with mental illnesses. FSSA reports this change will have no fiscal impact and is intended to maintain compliance with federal regulation changes in the Medicaid program.

*Rule Promulgation:* The bill would require FSSA to promulgate two sets of rules: (1) to determine home and community-based services that could be provided to Medicaid presumptively eligible applicants for A&D waiver services and (2) providing compensation for attendant care services provided by the parent of a minor child or a spouse. Rule promulgation can be provided within the level of resources available to the agency.

*Problem Solving Courts:* The term "problem-solving" generally refers to an alternative approach to traditional case processing that focuses on six principles: (1) enhanced information to improve decision-making; (2) engaging the community to assist with problem-solving; (3) collaboration with social services providers and other stakeholders; (4) linking participants with community-based services based on individual risk and needs; (5) participant accountability; and, (6) continuously evaluating the effectiveness of problem-solving court operations.

Problem-solving courts may involve participants who are pre-conviction (diversion) or post-conviction based on both statutory and court-established eligibility criteria. Problem-solving courts involve a prearranged system of graduated sanctions and rewards which focus on addressing specific problems that a participant is facing. Judges monitor the progress of these participants, sometimes meeting with these participants weekly. When a participant does not comply with court orders, the judge may impose a sanction.

This bill creates a framework in statute to permit courts to establish a certification process for additional problem-solving court models without added changes in statute. Those courts interested in certifying a problem-solving court may seek certification through the Indiana Judicial Center. Certified problem-solving courts may operate as (1) community courts to address specific neighborhood or local criminal problems; (2) domestic violence courts; (3) drug courts; (4) family dependency drug courts; (5) mental health courts, (6) reentry courts and (7) veterans' courts. However, this list of problem-solving court models is not exhaustive, and the bill permits the continued expansion of certified problem-solving courts to address the needs of the trial courts.

Under current law, two types of certified courts can be established to address specific problems faced by defendants: drug courts and reentry courts. Drug courts are designed to deal with persons with substance abuse problems, while reentry courts focus on offenders who have been released from the Department of Correction to probation, parole, community correction, or community transition.

There are three financial incentives for these courts to become certified by the Judicial Center under either current law or by the proposed bill. (1) Under current law, only drug courts and reentry courts that are certified can charge user fees. As proposed, only those problem-solving courts which obtain written approval by the Indiana Judicial Center would be able to assess and collect user fees. (2) The Supreme Court offers \$100,000 in grants each year only to certified drug courts. (3) Certified courts would also comply with national standards and be potentially competitive for federal grants.

By expanding the types of courts that could be certified as problem-solving courts, the staff at the Indiana Judicial Center could have a larger number of courts to certify. In December 2008, there were 29 certified drug courts (25 adult courts and 4 juvenile courts) and 6 certified reentry courts. Other common problem-solving court initiatives (adult and juvenile) include OWI courts, CHINS drug courts, community courts, family courts, mental health courts, truancy courts, domestic violence courts, gun courts, gambling courts, prostitution courts, and homeless courts (National Drug Court Institute, 2005). Indiana Judicial Center staff conducted a survey of trial court judges in 2007 and identified 68 courts that had implemented a problem-solving court or had incorporated problem-solving court principles into managing their court dockets. An additional 91 judges indicated that they were interested in learning more about one or more problem-solving court models.

**Explanation of State Revenues:** *Funds for Local Programs:* This bill removes language specifying 1/3 of the amount of (1) state revenue collected from gaming and alcohol sales and (2) federal funds received from the Substance Abuse Treatment and Prevention grant, are designated for local programs that offer substance abuse and mental illness treatment. The bill specifies that only a part of these funds collected be used for local programming, rather than 1/3 of the amount collected. The maximum amount of revenue that will no longer be specifically designated for local use is \$10.7 M per year.

**Additional Information:**

*Removing Statute Concerning Local Earmarks of Gaming, Alcohol, and Federal Funds:* This bill changes language that requires the DMHA to allocate 33% of the revenue from (1) the Riverboat Admission Tax, (2) excise taxes collected on alcoholic beverages, and (3) federal money earmarked for Drug Abuse and Alcohol Abuse/Alcoholics Efforts so that only a portion of the funds would be designated for local programs that provide prevention, intervention, and treatment services to individuals who have chronic substance abuse or dependence and are without significant or immediate treatment needs for mental illness or severe emotional disturbance.

These provisions will not increase state revenue, but may increase revenue that is available for state use. FSSA reports approximately \$25 M was received in SFY 2010 from the federal government for drug abuse and alcohol abuse programs, of which \$8.25 M was designated to be provided to local programs. For FY 2009, approximately \$3.25 M in revenue was provided to the Addiction Services Fund from the alcohol excise tax, of which \$1.08 M would have been forwarded to local programs. Additionally, in FY 2009, a total of \$4.12 M was provided to DMHA from the Riverboat Admission Tax, of which \$1.37 M would have been forwarded to local programs. The total amount of revenue that will no longer be designated for local use is \$10.7 M per year.

**Explanation of Local Expenditures:** *Problem Solving Courts:* See *Explanation of State Expenditures*.

**Explanation of Local Revenues:** *Removing Statute Concerning Local Earmarks of Gaming, Alcohol, and Federal Funds:* FSSA reports the changes in this bill will not decrease revenue that is forwarded to the local level, but the change would allow more flexibility to redistribute funds to maintain state coverage.

*Problem Solving Courts:* Problem-solving courts could charge user fees if permitted by the Indiana Judicial Center.

**State Agencies Affected:** Indiana Judicial Center; Judicial Conference of Indiana; FSSA.

**Local Agencies Affected:** Trial and city courts; prosecuting attorneys.

**Information Sources:** Jessaca Turner-Stults, FSSA; Jim Dunn, FSSA; Indiana Handbook of Taxes, Revenues, and Appropriations for FY 2009; Indiana Administrative Code; Program Inventory of Indiana's Social Services Agency from December 2006; Beth Kowalczyk, Ohio Department of Job and Family Services, (614) 664-1535; FSSA. "Expediting Medicaid Financial Eligibility" Robert L. Mollica, National Academy for State Health Policy, July 2004; Diane Mains, Indiana Judicial Center.

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